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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,078	02/27/2004	Steven J. Wygant	BEL0005.US	7269
7590	03/15/2006		EXAMINER	
Todd T. Taylor TAYLOR & AUST, P.C. 142 S. Main St. P.O. Box 560 Avilla, IN 46710			CHAMBERS, TROY	
			ART UNIT	PAPER NUMBER
			3641	
			DATE MAILED: 03/15/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/789,078	WYGANT, STEVEN J.
	<b>Examiner</b>	<b>Art Unit</b>
	Troy Chambers	3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15, 17, 18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15, 17, 18 and 20-22 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

## DETAILED ACTION

1. Applicant's affidavit (received 12/29/2005) has been received and acknowledged. The responses therein satisfy the examiner's inquiries.

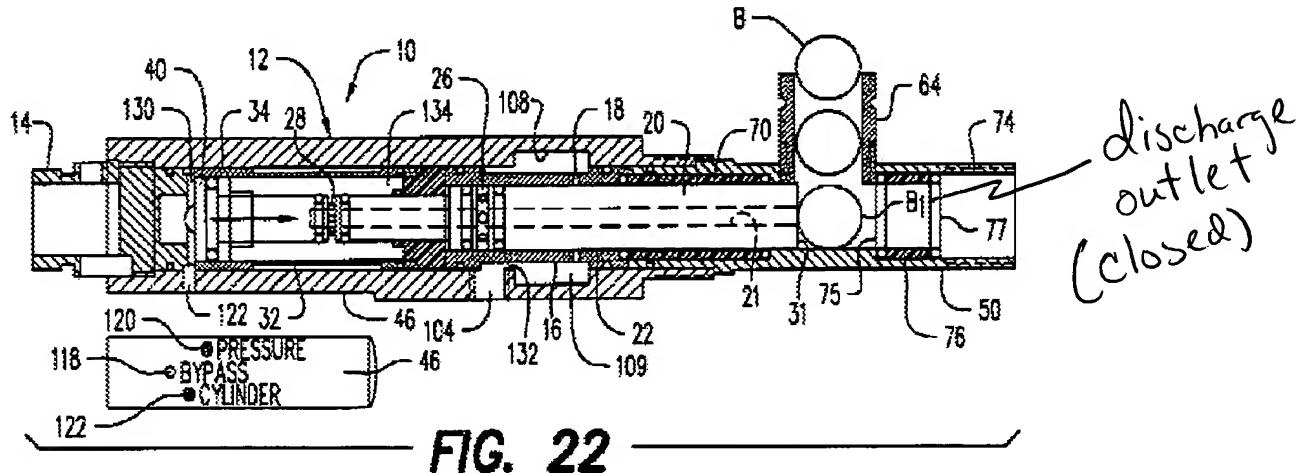
### ***Claim Rejections - 35 USC § 102***

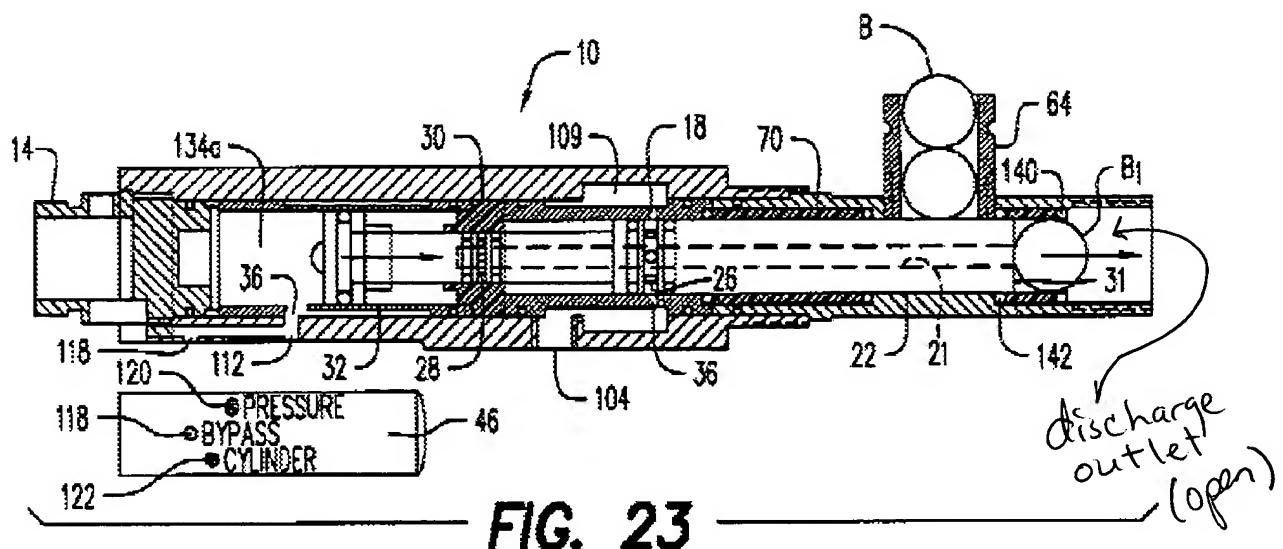
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7-9 and 12-14, 17, 18 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 5769066 issued to Schneider. Schneider discloses a pneumatic shooting device 10.





3. With respect to claim 1, Schneider discloses a pneumatic shooting device comprising:

- a. a barrel 72;
- b. an action including:
  - i. a housing 12,
  - ii. a pressure reservoir 109,
  - iii. a discharge outlet see Fig. above
  - iv. a linear body 32,
  - v. a piston 40.

Upon return of the piston to the reward position, the discharge outlet is closed to a source of pressurized gas (col. 5, ll. 66 to col. 6, ll. 6).

4. With respect to claim 2, Schneider discloses a piston 40 having an actuating end (left end), and an actuating reservoir 134a.

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5. With respect to claim 3, Schneider discloses a source of pressurized gas (col. 3, II. 38-41).

6. With respect to claim 4, Schneider discloses:

- c. a supply fitting 26,
- d. an actuator fitting 28,
- e. a slip ring 30.

7. With respect to claim 5, Schneider discloses an exhaust vent 118.

8. With respect to claim 7, Schneider discloses piston 40 have a radial seal provided by element 70 (Fig. 22) and element 77 (Fig. 23).

9. With respect to claim 8, Schneider discloses a barrel interface 22 and a face seal (see Fig. 22).

10. With respect to claim 9, Schneider discloses a regulator 44 and tubing (Figs. 7-10).

11. With respect to claim 12, Schneider discloses a pressure relief valve 46.

12. With respect to claim 13, refer to any one of Figs. 22-24 which discloses a breech at the end of barrel 74, the balls B being loaded at said breech.

13. With respect to claim 14, refer to col. 2, II. 29-32.

14. With respect to claim 17, refer to any one of Figs. 22-24.

15. With respect to claim 18, the piston 40 operates in response to gas pressure.

16. With respect to claim 20, refer to any one of Figs. 22-24 which shows linear body 32 attached to pressure reservoir 109.

17. With respect to claim 21, refer to the rejection of claim 1.

18. With respect to claim 22, refer to the rejection of claim 2.

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

20. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider in view of US 2004/0200466 issued to Salva. Schneider discloses a pneumatic shooting device as discussed above including a trigger 80. However, Schneider does not disclose a trigger safety. Salva discloses such a trigger safety comprising a safety catch [0026]. At the time of the invention, one having ordinary skill in the art would have found it obvious to provide the shooting device of Schneider with the safety catch of Salva. The suggestion/motivation for doing so would have been to prevent the unintended firing of the gun. Moreover, the Examiner takes Official Notice that trigger safeties are well known in the art.

21. Claims 10, 11, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider. Schneider discloses a pneumatic launching device as discussed above. However, Schneider does not disclose the burst ratios and diameter ratios claimed by the applicant. The Examiner notes that the specification contains no disclosure of either the critical nature of the claimed dimensions or any unexpected results arising therefrom, and as such, the ratios are arbitrary and obvious. At the time

of the invention, one having ordinary skill in the art would have found it obvious to provide the launcher of Schneider with the claimed ratios since it has been held that where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

***Response to Arguments***

22. Applicant's arguments with respect to claims 1 and 21 have been considered but are moot in view of the new ground(s) ("new" meaning same art but different interpretation of discharge outlet) of rejection.

***Conclusion***

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (571) 272-6874 between the hours of 7:00 a.m. to 3:30 p.m., M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (571) 272-6873.

Troy Chambers  
Primary Examiner  
Art Unit 3641



TC  
06 March 2006